

# EXHIBIT 16

VOL: I  
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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

\* \* \* \* \*  
SHEILA J. PORTER, \*  
Plaintiff \*  
-vs- \* Civil Action  
ANDREA CABRAL; SUFFOLK COUNTY \* No. 04-11935-DPW  
SHERIFF'S DEPARTMENT; SUFFOLK \*  
COUNTY and CORRECTIONAL MEDICAL \*  
SERVICES, INC., \*  
Defendants \*  
\* \* \* \* \*

DEPOSITION OF ANDREA CABRAL, ESQUIRE, a witness  
called on behalf of the Plaintiff, in the  
above-captioned matter, said deposition being  
taken pursuant to the Federal Rules of  
Civil Procedure, before Patricia M.  
McLaughlin, a Certified Shorthand Reporter and  
Notary Public in and for the Commonwealth of  
Massachusetts, at the offices of Goodwin Procter  
LLP, Exchange Place, Boston, Massachusetts, on  
Friday, May 6, 2005, commencing at 9:40 a.m.

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1 parameters of your question.

2 Let me see if there is anything else  
3 that mentions outside law enforcement.

4 Q When you say anything else that mentions  
5 outside law enforcement, that doesn't mention  
6 outside law enforcement, does it?

7 A No, it doesn't.

8 Q I didn't know what you meant by anything  
9 else.

10 A I don't see anything in this policy that  
11 mentions contact with outside law  
12 enforcement.

13 Q I think you've testified already -- but  
14 correct me if I misunderstood -- that this is  
15 the only place that would be? By this I mean  
16 Exhibit No. 1.

17 A I could not truthfully say this is the only  
18 place it would be. The policies are  
19 voluminous. This is the only place I would  
20 expect to find it.

21 Q These are your policies; you're the sheriff?

22 A They are.

23 Q And you think the policy concerning  
24 cooperation with outside law enforcement is

1 of a policy with regard to that.

2 Q I think your previous answer was you learned  
3 of Mr. Rosario coming back to the  
4 institution -- strike that. What were the  
5 circumstances under which you learned  
6 Mr. Rosario had come back to the institution?

7 A After the SID investigation was complete and  
8 I was having a conversation with chief of  
9 SID, Victor Theiss, about the results of that  
10 investigation.

11 Q Do you have a date on that?

12 A I don't.

13 Q Can you mark it in relation to other events?

14 A It was sometime prior to the point at which  
15 Sheila Porter was barred. I just don't have  
16 an exact.

17 Q If we accept as the first reported incident  
18 to be May 9th and the date of Miss Porter's  
19 barring to be --

20 MS. CAULO: May 19th?

21 Q I'm sorry. Thank you. And Miss Porter's  
22 barring to be June 10th, is it sometime in  
23 that time frame? Is that consistent with  
24 your memory?

1 A That's fair to say.

2 Q Can you, working back from the point at which  
3 Miss Porter was barred, give us a sense of  
4 how long before that that you learned of it?

5 A I really can't. It was not a scheduled  
6 meeting. What happened was there were many  
7 times when I would see Chief Theiss and get  
8 an update on what was going on with SID,  
9 because I was so busy, and I was in and out  
10 of the department so frequently, that I would  
11 take whatever opportunities were present to  
12 catch up outside of formal meetings, which  
13 were sometimes difficult to schedule.

14 Q So your best memory is that your first  
15 awareness that Inmate Rosario was back was in  
16 one of these informal meetings with  
17 Mr. Theiss?

18 A Yes.

19 Q Was anyone else present for that meeting?

20 A No.

21 Q What did he say to you, and what did you say  
22 to him?

23 A We had a discussion about the investigation  
24 into Rene Rosario's allegations that he had

1           been beaten by an officer. Mr. Theiss told  
2           me that the allegations came to our attention  
3           on the day that they were made through an  
4           officer to whom Mr. Rosario had reported.  
5           That officer reported it to SID.

6           SID began an investigation immediately  
7           into the accusations. They interviewed all  
8           the people who were involved either as  
9           witnesses or people who were present and  
10          interviewed Mr. Rosario, videotaped the  
11          interview, took digital photographs of the  
12          areas where he alleged he was hurt and got  
13          copies of the --

14          At the time that he made the report, he  
15          was in the infirmary, so they went and got  
16          copies of the medical records with regard to  
17          Mr. Rosario's treatment and did a full  
18          investigation.

19          Q     What else did he say?

20          A     In the context of talking about the  
21          investigation, he also talked about Sheila  
22          Porter and the fact that one of the  
23          investigators had gotten a call from an FBI  
24          agent, named Krista Snyder, with a K,

1           indicating that the FBI had received  
2           information that an inmate had been allegedly  
3           beaten by an officer and that ultimately, in  
4           the course of the investigation, they learned  
5           that that person was Sheila Porter.

6           He indicated to me that there was  
7           nothing in the medical record documenting her  
8           observations of that; that she was asked to  
9           write a confidential report pursuant to the  
10          policy; that a confidential report was not  
11          received until ten days later; and that that  
12          report appeared to be backdated to the date  
13          of the actual incident; and that it was on  
14          what I call Interdisciplinary Progress Notes  
15          or medical record form as opposed to the  
16          standard memo form for a confidential report.

17       Q     What else did he say?

18       A     That's essentially what the conversation was  
19          about.

20       Q     He didn't share with you SID's conclusions as  
21          to what had happened to Mr. Rosario?

22       A     Oh, no, he indicated that he didn't believe  
23          that the allegations could be sustained  
24          because the observations -- it was due to a

1 A No, not to my recollection.

2 Q What were the circumstances under which this  
3 issue was raised with you on either June 9th  
4 or June 10th?

5 A I received -- I believe it was a phone call  
6 from Elizabeth Keeley. There were probably a  
7 couple of other departmental matters that we  
8 discussed, and she asked me what my response  
9 was going to be to the issue involving Sheila  
10 Porter. My recollection is that I sort of  
11 spoke my thoughts out loud. I said she's the  
12 nurse who did not document and used the  
13 medical form in a confidential report, didn't  
14 submit a confidential report, and I sort of  
15 gave a litany. I said I believe that she  
16 should be barred from the institution.

17 Q Your memory is that Miss Keeley initiated the  
18 call or the meeting?

19 A That's my memory of it, yeah.

20 Q She initiated with an inquiry as to what you,  
21 Andrea Cabral's, response to the report about  
22 Miss Porter was going to be?

23 A She didn't initiate it that way.

24 Q Just give us your best memory of what you



1 Q Your understanding as you sit here today is  
2 that the process followed here was consistent  
3 with the process previously followed?

4 A I believe that there was one aspect that  
5 wasn't. I'm not sure that CMS was given a  
6 written notice. I think that that was  
7 supposed to be done.

8 Q When did you come to learn that that part of  
9 process had been violated?

10 A I have no idea when I learned that. It's  
11 been quite a while.

12 Q When did you learn what process was followed  
13 at all?

14 A I'm not entirely sure, but I believe it might  
15 have been the day after she was barred when  
16 she came back to the facility in the custody  
17 of an FBI agent, because that brought the  
18 issue sort of to my attention.

19 Q So on June 10th, whatever process was  
20 followed as to Miss Porter, the next you  
21 learn about what has happened is on  
22 June 11th?

23 A I believe so, yes.

24 Q Just to close the loop here, so the entirety

1           whether or not -- I don't recall whether or  
2           not she even got back to me.

3           Q     Give me a complete statement, if you would,  
4                 of the reasons why you concluded or decided  
5                 to give the order to bar Miss Porter.

6           A     She's a nurse working at the House of  
7                 Correction; pursuant to our contract with CMS  
8                 is told by an inmate that the inmate has been  
9                 abused and beaten by an officer, alleges that  
10                there is physical evidence of those bruises.  
11                The nurse does not document in the medical  
12                record her observations of what was relayed  
13                to her by the patient.

14                     Upon our discovery that these  
15                     allegations have been made and our discovery  
16                     that she, in fact, was one of the first  
17                     people to whom the allegations had been  
18                     reported, we request a confidential report.  
19                     The confidential report is not submitted in a  
20                     timely manner. It is received by us ten days  
21                     subsequent to it being requested. It is not  
22                     in memo form to Deputy Superintendent  
23                     Mastrorilli, to whom the report should have  
24                     been addressed, from Sheila Porter. It is on

1 a medical record form, which has particular  
2 significance to me and it is dated on the  
3 date of the incident in the space reserved  
4 for the date as though that's when the  
5 treatment was rendered.

6 Q Those are your entire reasons?

7 A Those were my reasons.

8 Q And it's your testimony that it had nothing  
9 to do with the fact that Miss Porter spoke to  
10 the FBI?

11 A No.

12 Q Did you understand or assuming these are your  
13 reasons --

14 MS. CAULO: Objection. She just  
15 testified that those were her reasons.

16 Q What is it in the policies of the Sheriff's  
17 Department that makes any of these statements  
18 of reasons that you have given a basis under  
19 which someone can be barred from the  
20 facility?

21 A If I can refer to Exhibit 1?

22 Q Sure.

23 A Just going through the policy, certainly  
24 under policy statements on Page 1, first, I

1 had written out the information. It wasn't  
2 that it had -- it wasn't a standard form, but  
3 using a medical records form versus any other  
4 format of communication was significant to  
5 me.

6 Q And where is that policy written?

7 A There is no policy here --

8 Q When you say here, what do you mean?

9 A There is no policy in S220 that goes to a  
10 medical person or specifically a nurse's  
11 obligation to document in the medical record  
12 observations related to potentially treatable  
13 injuries or harmful injuries to an inmate.

14 I'm talking about my understanding of  
15 what the use of a medical record is, how it  
16 is properly used and how a person who is in  
17 the medical profession for years would know  
18 that that form would be used.

19 Q You're saying that the use of a medical  
20 record form -- by that, I assume you mean the  
21 interdisciplinary progress notes form?

22 A Yes.

23 Q The use of that form for any other purpose  
24 than progress notes as to a patient violates

1           A     I knew that Miss Porter had provided  
2                   information to an FBI agent. I did not know  
3                   that Miss Porter was an informant.

4           Q     I think I used the word, cooperated, with,  
5                   but you knew she had cooperated in terms of  
6                   wiring up Rene Rosario and you knew she had  
7                   provided information to the FBI. Is there  
8                   anything else you knew?

9           A     No, I knew that she had provided information  
10                  to the FBI, but it was not -- her wiring of  
11                  Rene Rosario was not significant to me. It's  
12                  not unusual in law enforcement to have a  
13                  medical person do something like that to make  
14                  sure that it can be done in a safe and  
15                  confidential area and to make sure no harm  
16                  comes to the person in the course of them  
17                  buying wired.

18                         For all I knew, this was a one-time  
19                         provision of information with regard to his  
20                         allegations. It was not unusual at all to  
21                         me. We use nurses all the time to do various  
22                         things, to take samples and so forth in the  
23                         context of criminal investigations to that  
24                         they're done well.

1 which is hardly a definitive denial of that.

2 Q That was a conversation that occurred in the  
3 June 18th meeting?

4 A That was a conversation that occurred  
5 subsequent to June 18th.

6 Q I'm saying June 18th. I think June 16th was  
7 the meeting; June 18th was the phone call.  
8 Does that sound about right?

9 A It may be.

10 Q Was it in the context of the phone call, or  
11 has it been well subsequent to 2003 that he  
12 made those statements?

13 A No, it was in the context of the phone call.

14 Q You had a meeting on June 16th with Michael  
15 Sullivan and others. You had a telephone  
16 conversation with him on June 18th, 2003.  
17 Have you had any other personal contact with  
18 Michael Sullivan concerning the investigation  
19 of the barring of Sheila Porter?

20 A I believe he responded to my June 16th letter  
21 about a year later.

22 Q You said June 16th letter.

23 A Whatever the date was. The letter came after  
24 the conversation, which I think we agreed was

# EXHIBIT 17

SEP 29 2004



U.S. Department of Justice

*Michael J. Sullivan*  
*United States Attorney*  
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Very truly yours,

MICHAEL J. SULLIVAN  
United States Attorney

By:

  
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cc. Michael J. Sullivan, United States Attorney  
Michael K. Loucks, First Assistant U.S. Attorney

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# EXHIBIT 18

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

\* \* \* \* \*  
SHEILA J. PORTER, \*  
Plaintiff \*  
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ANDREA CABRAL; SUFFOLK COUNTY \* No. 04-11935-DPW  
SHERIFF'S DEPARTMENT; SUFFOLK \*  
COUNTY and CORRECTIONAL MEDICAL \*  
SERVICES, INC., \*  
Defendants \*  
\* \* \* \* \*

CONFIDENTIAL PURSUANT TO THE PROTECTIVE ORDER

DEPOSITION OF VIKTOR THEISS, ESQUIRE, a witness  
called on behalf of the Plaintiff, in the  
above-captioned matter, said deposition being  
taken pursuant to the Federal Rules of  
Civil Procedure, before Patricia M.  
McLaughlin, a Certified Shorthand Reporter and  
Notary Public in and for the Commonwealth of  
Massachusetts, at the offices of Goodwin Procter  
LLP, Exchange Place, Boston, Massachusetts, on  
Tuesday, May 24, 2005, commencing at 10:05 a.m.

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1 Q At the time you didn't have concerns about  
2 his personal safety?

3 MS. CAULO: Objection as to what time  
4 frame.

5 MR. SCHUMACHER: The time frame we have  
6 been talking about for the last ten minutes,  
7 which was May and June of 2003.

8 A No, I didn't have any serious concerns for  
9 his safety.

10 Q Did you have any concerns for his safety?

11 A Yes, in the sense that the more he talked  
12 about working with the FBI, the more he made  
13 allegations that were not sustainable, that  
14 there might be a risk to him that someone  
15 would retaliate against him. That's why we  
16 try not to have inmates housed that testify  
17 against staff, et cetera.

18 Did I have an actual concrete concern?  
19 No. Did I have a person that was going to  
20 harm him? No. For caution's sake or  
21 safety's sake, I think it's a wiser course to  
22 have somebody housed elsewhere. You just  
23 avoid the problems all together, because I  
24 don't have the ability to police the actions

1 of every individual officer on a 24-hour  
2 basis. It's not like we can be everywhere at  
3 all times. It's safer to have a person just  
4 out of the department.

5 Q In addition to the resources that SID had to  
6 expend on this guy, you had concerns about  
7 his personal safety?

8 A Generic concern, yes. Again, not a specific  
9 concern. There wasn't specific officers  
10 identified that were targeting him, but yes,  
11 a generic concern for his safety as someone  
12 who had cooperated and testified.

13 Q Indeed, you did make efforts to have him  
14 transferred, correct?

15 A Yes, I did.

16 Q What were those efforts?

17 A I contacted Krista Snyder and asked for her  
18 assistance, because since he had cooperated  
19 with them and they might have resources that  
20 we wouldn't, it was not easy to transfer  
21 Rosario within the county system. He had  
22 been previously transferred to a number of  
23 institutions, sentenced to a number of  
24 institutions and not had an easy time.

1 Q Do you remember -- did you go to her office?

2 A I don't remember exactly, but I'm sure that  
3 would have been where -- I didn't have much  
4 interaction with her anywhere else.

5 Q Was the purpose of that meeting to discuss  
6 the Rosario investigation?

7 A I don't believe so. I believe it was just to  
8 update her on everything. Obviously, she was  
9 interested in how SID was developing and the  
10 changes that we were trying to implement, the  
11 new staff, the training, but at the same  
12 token when I had the opportunity to give her  
13 updates on cases that came up, I would have  
14 done so.

15 Q When did this take place?

16 A I don't recall exactly.

17 Q If I tell you that the case summary is dated  
18 June 4th, 2003, presumably, it would be  
19 sometime after June 4th?

20 A Again, I just don't know.

21 Q What do you recall telling Sheriff Cabral  
22 about the Rosario investigation?

23 A Just the same synopsis I gave to the Chief of  
24 Staff; here is what we found out; that there

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1 before the Rosario allegations came about?

2 A No, I hadn't.

3 Q That was the first time you became aware that

4 there was a person named Sheila Porter?

5 A Correct.

6 Q How did her name come up with respect to the

7 Rosario allegations?

8 A I believe I testified earlier that it first

9 came up when Stan was approached by

10 Agent Snyder. She relayed information that

11 they had received a report that Rene Rosario

12 had been assaulted and that he had injuries

13 about his chest, neck and arm area, and that

14 struck us as odd, because by that point the

15 medical records had been received, reviewed.

16 The photographs had been taken -- photographs

17 hadn't been taken at that point. Basically,

18 he had been physically observed and medical

19 records had been reviewed that didn't

20 indicate injuries to that extent. The

21 injuries that we were aware of at that point

22 were localized to the arm region.

23 Q How is it that Miss Porter's name came up in

24 this context?



1           A     When Stan came back in from that interaction,  
2                   I believe he had to provide information to  
3                   the FBI. He had some documents they were  
4                   looking for in another case, so he had ducked  
5                   out of the training that we were all at to  
6                   provide those and came back in to report his  
7                   interaction, because it was unusual in the  
8                   sense that he was aware that we were looking  
9                   into Rene Rosario and we had kind of all --

10                         Since everybody had been around there,  
11                         we were talking, just kind of brainstorming  
12                         the case, and he mentioned what the FBI had  
13                         told him, to let the investigators know there  
14                         is this other allegation out there. When he  
15                         said "that's not what we have up to date; I  
16                         wonder where they are getting this from,"  
17                         because they wouldn't tell Stan who the  
18                         source of the information was. I believe  
19                         Steve Jacobs commented it may be  
20                         Sheila Porter; she had some connection with  
21                         Rene Rosario possibly having do in the past  
22                         with a wire that he wore.

23           Q     Was this the conversation with Steve Jacobs  
24                   that you mentioned before?

1                   Subsequently, as I stated earlier, I  
2                   found out from Brian that she had  
3                   approached -- they were up in the infirmary  
4                   gathering information, looking to get  
5                   documentation, et cetera, and she approached  
6                   them while they were up there. They had not  
7                   sought her out.

8           Q       During this interview on May 22nd -- does  
9                   that sound right when the interview with  
10                  Miss Porter took place?

11          A       That's what the reports indicate.

12          Q       Was she asked by the SID investigators to  
13                  document her findings?

14          A       I don't know if she was asked to document  
15                  them. Brian informed me that he recalls to  
16                  the best of his ability that he asked "well,  
17                  if you saw this, we don't have a report; we  
18                  need a report". She said "I have one; it's  
19                  at home on my computer; I don't have it with  
20                  me".

21          Q       In the interview memo, in the memo that  
22                  Mr. Dacey and/or Miss Aleman wrote reflecting  
23                  the first interview with Miss Porter, does  
24                  anything in that document indicate that SID

1 requested that Miss Porter write a report  
2 concerning her observations?

3 A No, I don't believe I saw that in that memo.

4 Q Are there any other documents prepared by SID  
5 investigators that indicate that Miss Porter  
6 was asked by SID to write a report concerning  
7 her observations?

8 A No, I don't believe so.

9 Q Was Mrs. Porter cooperative with SID during  
10 the interview?

11 A You'd have to ask Brian or Sonya. The report  
12 doesn't indicate that she was uncooperative.

13 Q You never heard that she was uncooperative?

14 A No.

15 Q Indeed, you just said she sought them out;  
16 isn't that right?

17 A Correct.

18 Q Did any of Mrs. Porter's statements to the  
19 investigators form the basis of their  
20 conclusions with respect to the  
21 sustainability of the allegations?

22 A Yes, the subsequent interview with  
23 Miss Porter, Investigator Dacey commented on  
24 the manner in which she approached them. It

1 person, detailing who, what, when, where, why  
2 how, action taken.

3 Q Would it be required that the report be  
4 addressed to someone in SID?

5 A If we specifically asked for it. There are  
6 many incident reports, to-froms, generated to  
7 lieutenants, captains, superintendents,  
8 deputy superintendents. I have the power  
9 under the policy to require any staff to  
10 write a report to me.

11 Q Would it have been sufficient in your mind if  
12 she had submitted the report to her  
13 supervisor rather than to SID?

14 MS. CAULO: Objection. It calls for  
15 speculation. You may answer.

16 A If she had written a report and generated it  
17 to her supervisor in a timely fashion, that  
18 would have been sufficient. That happens  
19 currently today. If an officer engages in an  
20 action in a unit, observes certain things,  
21 writes it to the lieutenant, that's  
22 sufficient. We don't then ask them to  
23 rewrite a report to SID unless there is  
24 glaring deficiencies in the report, which

1 sometimes we do note.

2 Sometimes officers are way too vague in  
3 their reports. They'll put "I observed, for  
4 example, an inmate assault another inmate;  
5 the inmate was restrained, taken to  
6 segregation for disciplinary proceedings".  
7 That doesn't tell you anything. An assault  
8 could have been a pushing. It could have  
9 been an outright fistfight. It could have  
10 been used with a weapon. We would then tell  
11 that officer "we need you to be more  
12 specific; what was the nature of the  
13 assault". There would either be a new  
14 to-from or we would either have a taped  
15 interview and have our own report. One way  
16 or another, we're going to have a report with  
17 the specific details.

18 Q But it would have been sufficient if she  
19 wrote that report to her supervisor and it  
20 didn't necessarily have to be addressed to  
21 someone in SID; is that fair to say?

22 A Yes, in a timely fashion.

23 Q In a timely fashion?

24 A Yes.

1 take very seriously. The medical records are  
2 critical to us. Even today, we use them all  
3 the time to help assess credibility of  
4 inmates, whether cases warrant -- what level  
5 of resources to give to them. It's an  
6 unbelievably important tool. They are just  
7 absolutely vital documents. Omitting  
8 information from them that could be, should  
9 be in them is very serious.

10 Q What were the underlying facts concerning  
11 Mrs. Porter's conduct that you reported to  
12 Mrs. Keeley and Sheriff Cabral? I think we  
13 have touched on them at various points. I  
14 just want to get a sense of what you told  
15 them you understood that Mrs. Porter had  
16 done.

17 A Again, I don't recall the specifics of the  
18 conversation. So much time has gone by and  
19 so much has occurred.

20 Q As best you can recall.

21 A Again, only the vague generalities of we  
22 talked about the case, and a big factor in  
23 the case was observations of injuries that no  
24 one else saw that weren't documented in the

1 medical records. That would have been  
2 discussed.

3 Q Do you recall discussing anything that  
4 Mrs. Porter did besides her alleged failure  
5 to document in the medical record what she  
6 observed?

7 A I don't.

8 Q Do you know if Mrs. Keeley or Sheriff Cabral  
9 received any information from any sources  
10 besides you concerning what Mrs. Porter  
11 allegedly did?

12 MS. CAULO: Objection. If you know.

13 A I don't.

14 Q Would it surprise you to learn that they  
15 based their decision with respect to  
16 Mrs. Porter entirely on the information they  
17 received from you?

18 MS. CAULO: Objection.

19 A You'd have to ask them.

20 Q Would it surprise you if you learned that?

21 MS. CAULO: Objection.

22 A Again, I don't know. I know I spoke to them.  
23 I know we spoke about the case, but that is  
24 all I know.

1 A No.

2 Q You don't recall or it didn't come up?

3 A I don't recall.

4 Q Was SID asked to investigate whether or not  
5 Mrs. Porter should be barred?

6 A No.

7 Q In other words, were you asked to investigate  
8 the circumstances concerning Mrs. Porter's  
9 alleged conduct?

10 A No.

11 Q Did anyone interview Mrs. Porter and say is  
12 this what happened?

13 A The only interviews I'm aware of are the ones  
14 that we conducted.

15 Q And those were with respect to the Rosario  
16 allegations?

17 A Correct.

18 Q Did anyone interview Mrs. Porter with respect  
19 to the reasons why she was barred?

20 A I don't know.

21 Q Do you have an understanding as to why  
22 Mrs. Porter was barred?

23 A I wasn't a part of that decision-making  
24 process.



1 A We can infer that it's dated May 25 and he's  
2 talking about something that occurred on  
3 May 19 that he didn't do it by the end of his  
4 shift.

5 (Whereupon, a brief recess was held.)

6 BY MR. SCHUMACHER:

7 Q Just to close the loop on the whole  
8 timeliness of reporting issues, in your mind,  
9 what would have been different if SID had  
10 received Mrs. Porter's report on May 19th?

11 MS. CAULO: Objection.

12 A I don't know how to answer that.

13 Q Well, her alleged untimeliness of her  
14 reporting did it prejudice the investigation  
15 in any way?

16 A No.

17 Q Do you believe that the investigation would  
18 have been conducted any differently had SID  
19 received her report on May 19th?

20 MS. CAULO: Objection.

21 A Yes.

22 Q In what way?

23 A We would have interviewed her sooner.

24 Q She was interviewed on the 22nd, but you

1 to what should go in a medical file and what  
2 shouldn't?

3 A To the best of my knowledge, no.

4 Q In your mind that was significant though; is  
5 that fair to say?

6 A Yes.

7 Q Whether or not it was contained in Policy  
8 S220?

9 A Correct.

10 Q Do you know if the fact that Mrs. Porter  
11 didn't place the document in Mr. Rosario's  
12 medical file -- did that violate any policies  
13 of the Sheriff's Department?

14 A I'm not aware of any.

15 Q We've talked about the alleged inconsistent  
16 information that was contained in  
17 Mrs. Porter's report. We have talked about  
18 that at length. You'd agree that the medical  
19 observation following use of force form, that  
20 refers a large bruise; is that right?

21 A On the left arm.

22 Q It's your memory that Mrs. Porter's report  
23 discusses bruises in two places?

24 A Yes.

# EXHIBIT 19

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 06/02/2003

To: Boston

Attn: CIU

From: Boston

C-1

Contact: Christa J. Snyder

Approved By: [REDACTED]

Drafted By: Snyder Christa J

Case ID #: [REDACTED] (Pending)

Title: [REDACTED]

Synopsis: To summarize information pertaining to individual.

Details: [REDACTED]

On approximately 05/23/2003, I spoke to [REDACTED] on the telephone, and [REDACTED] stated that SID believed that they knew the identity of the source who provided the information. [REDACTED] then identified [REDACTED] as the individual. [REDACTED] then stated that it could be a problem because the individual did not report the alleged assault to Suffolk County Sheriff's Department. I told [REDACTED] that it was not appropriate for SID to attempt to determine who the source was, and that the source was informed that the I would report the

UPLOADED

WITH/TEXT ☒

WITHOUT/TEXT ☐

BY [REDACTED]

DATE 6/15/03

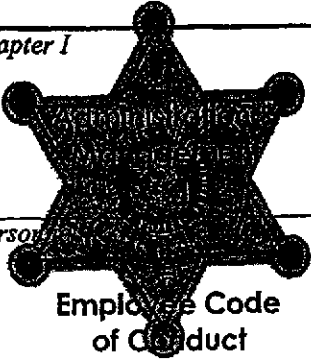

To: Boston From: Boston

Re: [REDACTED] 06/02/2003

information to SID. [REDACTED] then stated that he did not think it would be a problem in the end. The identity of the source was neither confirmed or denied by me.

On 05/29/2003, individual contacted me and stated that investigators from Suffolk County House of Correction interviewed individual regarding the allegations that [REDACTED] was assaulted. The interview was conducted in the Sheriff's Investigative Division's office area. The investigators seemed annoyed that the Federal Bureau of Investigation was involved in the case, and seemed to be interrogating individual. In a poorly veiled attempt to mislead the source, the investigators asked source "Why did you notify Christa?" Individual stated, "Why, did I say Christa was notified?" Individual was very surprised at their line of questioning. This was a ploy by SID to deceive individual in hopes that individual would identify oneself as a source of the FBI. Individual identified the investigators and BRIAN Last Name Unknown and a female who formerly worked for the Massachusetts Department of Social Services.

# EXHIBIT 20

<b>Chapter I</b>  <b>Employee Code of Conduct</b>	<b>Policy #:</b>  <b>S220</b>	<b>References:</b> <b>G.L. c.268A</b> <b>103 CMR 910.08; 924.02; 973.07;</b> <b>943.09</b> <b>3-ACI-3-4067; 4173; 4268</b> <b>3-ALDF-1C-23; 3A-07; 3E-08</b>	<b>Page 1 of 9</b>
<b>Personnel</b>	<b>Date of Issue:</b> <b>January 1, 2000</b> <b>Date Revised:</b> <b>October 1, 2001</b>	<b>Approved:</b>  <b>General Counsel</b>	

## Purpose

This policy codifies the rules governing standards of conduct and ethical behavior expected of all employees of the department.

## Policy Statements

- I. These rules are issued as general directives and do not attempt to cover each and every contingency that may arise during the performance of an employee's duties while employed by the Department.
- II. Nothing in any part of these rules shall be construed to relieve an employee of his or her primary responsibilities concerning the safekeeping and custodial care of inmates, or from an employee's constant obligation to render good judgment, full and prompt obedience to all provisions of the law, and to all orders neither illegal, hazardous to oneself or others, nor in conflict with deeply-held moral or religious convictions.
- III. All employees are subject to the provisions of these rules.
- IV. Improper conduct negatively affecting or reflecting upon the Department in any way will not be tolerated whether or not it is specifically mentioned and described in these rules.
- V. Acceptance of appointment with the department shall be acknowledgment of an employee's agreement to abide by these and all other rules.
- VI. Nothing in these rules is intended to conflict with the laws of the Commonwealth, or to infringe upon the constitutional rights of any employee.

## Procedures

### I. General Guidelines

#### A. Standards of Public Service

1. An employee's position with this department is one of responsibility and public trust. As such, and in order to maintain the dignity and public perception of the department, all employees must be discreet and prudent not only in their professional capacities, but in personal relationships, personal associations and places frequented (see policy S239, Sexual Harassment).
2. An employee's uniform, badge, identification or other official insignia shall be used only as is required in the course of his/her official duties, and then only discreetly and not for personal gain.

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3. All employees are required to conform their behavior to the ethical standards spelled out in G.L. c.268A.

*B. Appointment, Employment, Termination of Service*

1. Selection for appointment to a position with the Department is based in part on statements contained in the employment application form. Discovery that any statement is false may lead to an employee's immediate discharge.
2. All employees shall be photographed for identification purposes. Identification photographs may be retaken as needed to keep them current.
3. All employees must report promptly in writing to the Director of Personnel any change in residential address, home telephone number, person to notify in case of emergency, or any other pertinent personnel data.
4. A minimum of two (2) weeks notice of resignation is required.

*C. Confidential Communications*

1. The affairs of the Department or persons in custody are confidential, and any discussion on these subjects shall be limited to that which is necessary in the performance of an employee's duties and shall only be shared with persons authorized to receive such information.
2. Any unauthorized disclosure of confidential information by an employee shall constitute just cause for disciplinary action.
  - a) An inmate's (or detainee's) name, address, and related information is protected by the provisions of the Confidential Offender Information (CORI) Act, detailed in G.L. c.67E. Such information may only be released to authorized persons in accordance with the Confidential Offender Record Information.
  - b) An employee's personal information (name, address, telephone, SSN) are considered confidential and shall not be released without authorization from the individual, a subpoena, or a court order unless dissemination of such information is required in the ordinary course of department business.
  - c) Written or electronic information generated by any division of the Department may or may not qualify as a public record eligible for release outside the Department. Except as is specifically authorized by Department policy or procedure, internal information may not be released outside the department unless and until the General Counsel or her designee has so authorized.
  - d) Release of any information pertinent to an on-going department investigation will be considered interference and will be disciplined accordingly. However, if the employee is the focus of the investigation, he/she may disclose any such information to his/her union representative and/or attorney to assist in his/her own defense.
3. Official records, papers, reports or copies of same shall not be removed from the institution without specific instruction or prior permission from the Superintendent except as is necessary for the performance of one's duties.

*D. Interactions with Public*

1. Employees shall be courteous and professional in all public contact that may arise in the course of their duties.

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2. It is not inconceivable that an employee may encounter a member of the public who fails to treat the employee with the same courtesy. In such instances, employees are to retain their composure and refer the individual to their supervisor.
3. Tours:
  - a) Formal tours of the institution may be arranged through the Office of Community Affairs and Project Development.
  - b) Unless assigned to the CAPD office, employees may conduct tours only with prior approval of the Superintendent.
  - c) Personal visitors of staff may be admitted to the facility but shall be escorted by staff and are generally restricted from inmate housing areas
4. No employee may give a public address or publish a writing that in any way holds the author out as a representative of the Department without the prior approval of the Special Sheriff.

*E. Interactions with the Media*

1. Only the Sheriff or his Office of Communications may make statements to the media or release news statements or bulletins concerning the business of the department.
2. The Department reserves the right to determine whether or not the media will be permitted on the premises.
3. Media access to employees or inmates is governed by S130, Inmate Media Access and S131, Public Information.

*F. Interactions with the Other Employees*

1. The mission of the Department is to maintain a harmonious relationship between and among employees, and therefore staff must be considerate and courteous in their working relationships.
2. An employee shall not foster discord or engage in any activity that could lower the morale of another employee and must be discreet in the discussion of personal matters.
3. An employee may not inspect other employee's personnel information or other official documents, other than as is necessary in the official performance of their duties.
4. It is inappropriate for employees to attempt to influence, temper or rescind disciplinary action against another employee except through their union representatives.

*G. On-Duty Interactions With Inmates*

1. When interacting with inmates, employees must act solely in the furtherance of the Department's two-fold mission: CUSTODY and CARE.
2. Such interaction with inmates shall provide protection from physical, emotional or sexual abuse, corporal punishment, personal injury, disease, property damage, discrimination and harassment.
3. Employee conduct shall be professional, objective, and unbiased in the application and enforcement of Department policies, rules and regulations.
4. Employees shall not discuss Department business with, or in the presence of, inmates except as is required by their duties.

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5. Employees must never express to an inmate a personal opinion, whether positive or negative, regarding another employee.
6. Personal employee information shall not be discussed with, or in the presence of, inmates.
7. Employees must not give inmates the impression that staff are in conflict with one another, since such impression may lead to attempts at manipulative behavior.
8. Employees shall not make reference to the nature of an inmate's offense(s), or to any visits with SID or outside law enforcement agencies, in the presence of any other inmate.
9. Except as is expressly required by their duties, employees shall not intercede or act on behalf of an inmate's custody status (with this Department or any another agency) without prior approval of the Superintendent.
10. Employees are prohibited from all forms of bartering, buying or selling, directly or indirectly, with inmates.
11. Employees shall not accept a fee, gift, gratuity or any item of value from an inmate.
12. Employees shall not provide any gift, gratuity, or any item of value to an inmate except as is required in the performance of their duties or as otherwise instructed by the Superintendent.

*H. Off-Duty Interaction With Inmates*

1. Employees must not accept or respond or consort with any inmate or former inmate, except in the course of one's regular duties, without first informing the Superintendent.
2. Any other contact with an inmate, not covered by paragraph H1, above, must also be reported in writing to the Superintendent.
3. Employees must not accept a fee, gift, gratuity or any item of value from an inmate or personal friend is committed to this facility. Employees are exempt from reporting contact with relatives after their release from Department custody.
4. The purpose of this notice requirements is to lessen any potential embarrassment to, and avoid any suggestion of impropriety, the employee concerned.

*I. Interaction With Inmates' Friends Or Family*

1. Any contact with an inmate's relatives or friends must be reported in writing to the Superintendent.
2. Employees shall not accept a fee, gift, gratuity or any item of value from an inmate's family, friends, or any person acting on their behalf.
3. Employees shall not provide any fee, gift, gratuity, or any item of value to an inmate's family, friends, or any person acting on his/her behalf except as is required in the performance of their duties or as otherwise instructed by the Superintendent.
4. Conversation with inmate's visitors shall be limited to that which is required by an employee's duties.

*J. Fitness For Duty*

## 1. Drug Policy

Use of illegal drugs and abuse of alcohol or prescription medication are incompatible with service in a law enforcement agency, and such conduct will be dealt with in accordance with S215, Drug Free Workplace.

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- a) The department will not tolerate the presence of illegal drugs or alcohol on its premises, nor will it tolerate any of its employees reporting for duty or engaging in official business of the Department while under the influence of alcohol or drugs.
  - b) Any employee who, under doctor's care or otherwise, is taking any medication while on duty which may affect their performance in any way must report this fact to their supervisor and the Superintendent.
  - c) No employee may dispense or give medicine of any type (prescribed or not) to an inmate unless:
    - i. the medication is administered in accordance with **Health Services Policy #20, Medication Administration** by a licensed nurse, physician or dentist; or
    - ii. expressly authorized by the Superintendent or designee
2. Disability Or Need For Accommodation
- a) Any health problem, injury, or restriction which may affect an employee's job performance, or for which an employee may require an accommodation, must be medically documented and reported to his/her division manager.
  - b) Such documentation must satisfy the following requirements:
    - i. be an original;
    - ii. be written on the letterhead of the health care provider;
    - iii. contain an original signature of the health care provider;
    - iv. clearly state the nature and extent of the conditions the employee has due to the illness or injury;
    - v. list the expected duration of the condition;
    - vi. Division of Workers' Compensation shall coordinate with the Director of Workers' Compensation on accommodations for work-related injuries, and with the Director of Personnel on accommodations for non-work-related injuries.
3. Length Of Work Day
- a) No officer may work more than sixteen (16) hours in a twenty-four (24)-hour period, and must not work in any capacity for eight (8) hours before returning to duty.
  - b) This prohibition shall include regular shifts, overtime, training, community affairs events, and paid details.
  - c) Should an employee be suspended for any reason, he/she may not work in any capacity during the twenty-four (24) hour period comprising said suspension day.
4. Conduct On Duty
- a) Employees must not engage in any amusement or activity while working which might interfere with the performance of duties.
  - b) Televisions, radios, CD or tape players and the like are strictly prohibited from any control centers, and employees shall not use such devices while in the units.
  - c) Reading material other than official department publications is prohibited while posted in a housing unit or control center.
  - d) Cell phones are prohibited inside the institution unless issued by the department.

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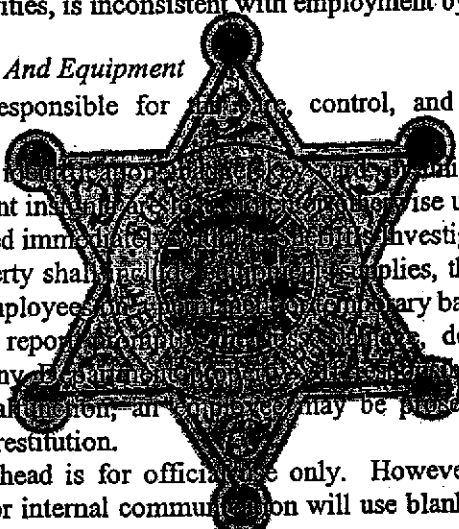
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- e) Penalties for the misuse of department telephones and the generation of unauthorized charges may include restitution as well as discipline.

## 5. Conduct Off-Duty

- a) All employees must report any involvement with law enforcement officials pertaining to an investigation, arrest, or court appearance.
  - i. Such reports shall be made to the Special Sheriff within 24 hours of the involvement with law enforcement officials, or prior to the commencement of the employee's next shift, whichever is sooner.
  - ii. If the Special Sheriff is unavailable, reports shall be made to the Superintendent or Shift Commander at the appropriate institution.
- b) All employees must be circumspect in their choice of associates, and even casual interaction with known criminals, or with individuals engaged in unsavory activities, is inconsistent with employment by the department.

## K. Department Property And Equipment

- 
- 1. Employees are responsible for the care, control, and security of Department property.
  - 2. If an employee's name appears on a uniform article which bears an official Department insignia and is otherwise unaccounted for, a written report shall be filed immediately with the Sheriff's Investigation Division (SID).
  - 3. Department property shall include department supplies, the physical plant and any items issued to employees on an official or temporary basis.
  - 4. Employees must report promptly any loss, damage, destruction, or discovered malfunction of any Department property. If an employee is responsible for the loss, damage, destruction or malfunction, an employee may be prosecuted, disciplined and/or required to make restitution.
  - 5. Department letterhead is for official use only. However, memoranda or reports intended solely for internal communication will use blank white paper, either with or without computer-generated headings.
  - 6. Equipment issued for any period of time must be returned in good condition.
  - 7. At the time of termination of employment for any reason, employees must return issued equipment, badges, key cards, identification cards, policy and training manuals, and any other county property in their possession.

## L. Reports

- 1. Employees are required to report in writing all unusual or significant events regarding Departmental operations or security in which they are involved or about which they have personal knowledge
  - a) Unless specifically authorized otherwise, these reports must be submitted promptly, but no later than the end of the employee's shift.
  - b) Reports are to be submitted to the employee's immediate supervisor, unless instructed otherwise by the investigating official or department policy.
  - c) Uniformed employees in posts requiring maintenance of a log book must maintain written records of ALL events that occur on their shift, whether or not unusual or significant.

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2. Employees must also file a written report whenever ordered to do so by any supervisor, SID, or any other department official authorized to conduct an investigation.
3. Whether or not the employee has previously submitted an oral or written report, employees must be truthful and cooperate if requested by SID (or any other office or individual appointed to conduct an investigation) to submit to an interview.
4. All reports generated in the course of an employee's duties are to be treated as confidential communications in accordance with paragraph C(2d), above.
5. Failure to report, false reporting, or interference with any employee's report may result in discipline or, in some cases, criminal prosecution.

*M. Attendance*

1. Regular and punctual attendance is expected of all employees, and excessive absenteeism or tardiness will be dealt with firmly in accordance with policies S207, S208 and S209, Managing Attendance, and S211, Unauthorized Absence.
2. Employees may not exchange duties or swap days or hours of work without prior authorization of their Shift Commander (uniformed) or immediate supervisor (non-uniformed).
3. While off-duty and within the Commonwealth of Massachusetts, if informed by any means that an emergency exists at a correctional facility, every uniformed officer must contact the institution and report the emergency.

*N. Administrative Procedures*

1. It is the responsibility of each employee to maintain a working knowledge of the policies contained within this manual, to read the manual, and to understand and comply with the rules and regulations contained therein.
2. When an employee does not understand a regulation, policy or an order, the employee is expected to seek explanation or clarification from his/her immediate supervisor.
3. All employees must scan official bulletin boards when reporting for, and departing from duty, for the presence of official orders or notices.
4. Any person tampering with, removing, defacing, or marking such orders or notices without authorization shall be subject to disciplinary action.
5. After any absence from his/her regularly-scheduled shift, an employee shall inquire of his/her supervisor whether any important information was disseminated during his/her absence.

**II. Offenses**

If it is determined that, by a preponderance of the evidence presented either at a formal hearing convened by the Sheriff or an informal hearing conducted by the Superintendent or his designee, an employee has committed any one of the following offenses, he/she is subject to discipline, up to and including termination:

- A. Physical abuse of an inmate
- B. Sexual contact with an inmate
- C. Possession of illegal drugs/alcohol while on/in department premises/vehicle
- D. A positive hair sample or urinalysis drug test

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- E. Sexual harassment of a subordinate employee
- F. Conviction of any crime
- G. Possession of drugs within the institution without authorization
- H. Acceptance of drugs/alcohol from, or delivery to, an inmate
- I. Giving false statements under oath or on an employment application
- J. Assault and/or battery on a fellow employee
- K. Assisting an inmate to escape or attempt to escape
- L. Use of excessive force
- M. Under the influence of drugs/alcohol when reporting for, or while on, duty
- N. Improper conduct
  - 1. Conduct unbecoming of an officer (uniformed personnel)
  - 2. Unprofessional conduct (non-uniformed personnel)
- O. Submission of a misleading, incorrect, or false report (either oral or written)
- P. Possession of contraband within the institution
- Q. Accepting contraband from, or delivering contraband to, an inmate
- R. Valid arrest or incarceration by a law enforcement agency
- S. Disrespect or insubordination:
  - 1. To a superior in the presence of inmates
  - 2. To a superior in the presence of subordinates
  - 3. To a superior
- T. Discourtesy, disrespect, or insubordination (in decreasing order of severity):
  - 1. To the public
  - 2. To a subordinate
  - 3. To any Department employee
  - 4. To any Department employee
  - 5. To any Department employee
- U. Inappropriate familiarity (in decreasing order of severity):
  - 1. With an inmate
  - 2. With a fellow employee
  - 3. With visitors or the public
- V. Damage to property (in decreasing order of severity)
  - 1. Willful damage to county or any other property in the custody of the Department
  - 2. Negligent use, misuse, or misappropriation of, county or any other property in the custody of the Department Violation of Department policy (in decreasing order of severity).
  - 3. Failure to obey lawful oral or written order of a superior
  - 4. Failure to report a hazardous condition and take remedial action
  - 5. Interference with an investigation
  - 6. Failure to timely submit required reports/documentation
  - 7. Failure to report violations of Department rules, regulations, policies, or procedures committed in your presence or of which you had personal knowledge
  - 8. Failure to properly supervise subordinates, to discipline or recommend disciplinary charges, or to take proper action with subordinates
  - 9. Interference of off-duty employment with Department duties
  - 10. Failure to report change of residential address or telephone number to the Director of Personnel within five days of change
  - 11. Violation of any other Department rule, regulation, policy, or procedure (cite specific policy reference in charge)

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W. Improper/inappropriate attire:

1. Out of uniform (uniformed personnel)
2. Unprofessional attire (non-uniformed personnel)
3. Uncleanliness in person or dress

X. Unauthorized absence

1. AWOL (absence without leave)
2. Misuse of sick leave
3. Tardiness
4. Abuse of sick leave

Y. Offenses against public safety

1. Unauthorized absence from, or abandonment of, post
2. Neglect or dereliction of duty
3. Inefficiency
4. Fighting or quarreling with fellow employees
5. Sleeping on duty
6. Allowing an inmate to escape
7. Violation of health and/or safety rule

III. Waivers And Modifications

A. *Emergency*

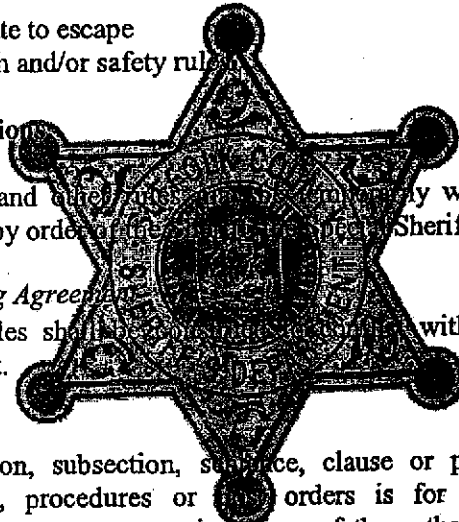
Provisions of these and other rules may be waived or modified in an emergency situation by order of the Sheriff or the Superintendent.

B. *Collective Bargaining Agreement*

Nothing in these rules shall be inconsistent with any relevant collective bargaining agreement.

C. *Authority*

If any article, section, subsection, sentence, clause or phrase of these or other Department policies, procedures or orders is for any reason held to be unconstitutional, contrary to statute, in excess of the authority of the Sheriff or the Superintendent, or otherwise inoperative, such decision shall not affect the validity of any other part of this policy.



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